

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

DAVID DEAN BUZZARD, JR.

Plaintiff,

v.

CIVIL ACTION NO. 2:15-cv-06376

DAVID BALLARD, et al.,

Defendants.

MEMORANDUM OPINION AND ORDER

Pending before the Court is Plaintiff's Second Amended Complaint, (ECF No. 25), which seeks damages and declaratory and injunctive relief based on the alleged constitutional violations of various officials at Mount Olive Correctional Complex and Jim Rubenstein, the commissioner of the West Virginia Division of Corrections. On May 18, 2015, this action was referred to United States Magistrate Judge Dwane L. Tinsley for submission of proposed findings and recommendations. (ECF No. 5.) Magistrate Judge Tinsley filed a proposed finding and recommendation ("PF&R") on May 20, 2016, recommending that this Court deny as moot all of Plaintiff's requests for declaratory and injunctive relief and dismiss Plaintiff's official capacity claims against Defendant Rubenstein. (ECF No. 26.)

The Court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of de novo review and a party's right to appeal this Court's

Order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984). In addition, this Court need not conduct a de novo review when a party “makes general and conclusory objections that do not direct the Court to a specific error in the magistrate’s proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982).

Objections to this PF&R were due on June 6, 2016. To date, no objections have been filed.

Accordingly, the Court **ADOPTS** the PF&R, (ECF No. 26), **DENIES AS MOOT** all claims for declaratory and injunctive relief asserted in Plaintiff’s Second Amended Complaint, and **DISMISSES** Plaintiff’s official capacity claims against Defendant Rubenstein.

IT IS SO ORDERED.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: June 21, 2016



THOMAS E. JOHNSTON
UNITED STATES DISTRICT JUDGE